

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

THE MUNICIPALITY OF BAYAMÓN *et al.*,

Plaintiff,

v.

EXXON MOBIL CORP. *et al.*,

Defendants.

Case No. 3:22-cv-01550-SCC-HRV

DEFENDANTS' JOINT MOTION TO STRIKE
MUNICIPALITY OF SAN JUAN [SIC] RESPONSE TO OCCIDENTAL
PETROLEUM CORPORATION'S OPPOSITION FOR CONSOLIDATION (DKT. 289)

TO THE HONORABLE COURT:

COME NOW the undersigned Defendants, through their respective counsel, and hereby submit this motion to strike non-party Municipality of San Juan's *Response to Occidental Petroleum Corporation's Opposition for Consolidation (Dkt. 289)*, Dkt. No 291 (the "Response"), on the following grounds:

1. On August 27, 2024, Defendants filed their *Joint Response in Opposition to Non-Party Municipality of San Juan's Motion for Consolidation*, Dkt. No. 288 (the "Opposition"). Defendants showed in the Opposition that there are significant threshold issues pending in the case captioned *Municipality of San Juan v. Exxon Mobil Corp. et al.*, No. 23-cv-01608-ADC (the "*San Juan* case"), that should be resolved by that Court before addressing the potential consolidation or transfer of that case to this Court. *See* Opposition at 7-11.

2. Also on August 27, 2024, Defendant Occidental Petroleum Corporation ("Occidental") filed its *Response in Opposition to Nonparty Municipality of San Juan's Motion for Con-*

solidation, Dkt. No. 289, which, like the Opposition, requested denial of the Motion to Consolidate.

3. On August 30, 2024, San Juan filed its Response, purportedly to “oppose[] [Occidental’s] opposition to consolidation.” Response at 3 (request for relief). Despite its title, the Response is in effect an unauthorized reply to Defendants’ and Occidental’s respective Oppositions to the Motion to Consolidate and should be stricken for two reasons.

4. *First*, Local Rule 7(c) expressly requires a movant to obtain leave of court before filing a reply. It provides, in pertinent part: “*With prior leave of court* [...], the moving party may file a reply[...], which [...] shall be strictly confined to responding to new matters raised in the objection or opposing memorandum.” (Emphasis added.) Because San Juan filed its Response without even moving for leave of court, let alone having leave, the Response should be stricken.

5. *Second*, the Response also should be stricken because it is not “strictly confined to responding to new matters raised in the objection or opposing memorandum,” as required by Local Rule 7(c). Instead, it rehashes arguments made by Plaintiff in the Motion to Consolidate, including that certain factors favor consolidation. *See Miguelachuli v. F.D.I.C.*, 799 F.Supp.2d 141, 143 n.1 (D.P.R. 2011) (striking reply because it was filed without leave of Court and “Plaintiffs’ allegations are merely a rehash of their previous arguments”).

WHEREFORE, Defendants respectfully request that this Honorable Court strike Non-Party Municipality of San Juan’s *Response to Occidental Petroleum Corporation’s Opposition for Consolidation* (Dkt. 289), Dkt. No 291.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, on this 4th day of October 2024.

By: s/Roberto C. Quiñones-Rivera
Roberto C. Quiñones-Rivera

USDC-PR Bar No. 211512
Eduardo A. Zayas-Marxuach
USDC-PR Bar No. 216112
Myrgia M. Palacios-Cabrera
USDC-PR Bar No. 230807
McConnell Valdes LLC
P.O. Box 364225
San Juan, PR 00936-4225
Telephone: 787-250-2631
Facsimile: 787-474-9201
E-mail: rcq@mcvpr.com
E-mail: ezm@mcvpr.com
E-mail: mpc@mcvpr.com

Theodore J. Boutrous, Jr. (*pro hac vice*)
William E. Thomson (*pro hac vice*)
Joshua D. Dick (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
Telephone: (213) 229-7000
E-mail: tboutrous@gibsondunn.com
E-mail: wthomson@gibsondunn.com
E-mail: jdick@gibsondunn.com

Thomas G. Hungar (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue NW
Washington, DC 20036
Telephone: (202) 887-3784
E-mail: thungar@gibsondunn.com

Neal S. Manne (*pro hac vice* forthcoming)
Erica Harris (*pro hac vice* forthcoming)
SUSMAN GODFREY LLP
1000 Louisiana, Suite 5100
Houston, TX 77002
Telephone: 713.651.9366
Facsimile: 713.654.6666
E-mail: nmanne@susmangodfrey.com
E-mail: eharris@susmangodfrey.com

Attorneys for Defendant
CHEVRON CORPORATION

By: s/ Néstor M. Méndez Gómez

Néstor M. Méndez Gómez

USDC-PR Bar No. 118409

María D. Trelles Hernández

USDC-PR Bar No. 225106

PIETRANTONI MÉNDEZ & ÁLVAREZ LLC

Popular Center, 19th Floor

208 Ponce de León Ave.

San Juan, Puerto Rico 00918

Telephone: (787) 274-1212

Facsimile: (787) 274-1470

Email: nmendez@pmalaw.com

Email: mtrelles@pmalaw.com

Theodore V. Wells, Jr. (*pro hac vice*)

Daniel J. Toal (*pro hac vice*)

Yahonnes Cleary (*pro hac vice*)

Caitlin E. Grusauskas (*pro hac vice*)

PAUL, WEISS, RIFKIND,

WHARTON & GARRISON LLP

1285 Avenue of the Americas

New York, New York 10019-6064

Telephone: (212) 373-3000

Facsimile: (212) 757-3990

Email: twells@paulweiss.com

Email: dtoal@paulweiss.com

Email: ycleary@paulweiss.com

Email: cgrusauskas@paulweiss.com

Attorneys for Defendant

EXXON MOBIL CORPORATION

By: s/Kenneth C. Suria

Kenneth C. Suria

USDC-PR Bar No. 213302

ESTRELLA, LLC

P.O. Box 9023596

San Juan, Puerto Rico 00902-3596

Telephone: (787) 977-5050

Facsimile: (787) 977-5090

E-mail: kcsuria@estrellallc.com

Tracie J. Renfroe (*pro hac vice*)

KING & SPALDING LLP

1100 Louisiana, Suite 4100
Houston, TX 77002
Telephone: (713) 751-3200
Facsimile: (713) 751-3290
E-mail: trenfroe@kslaw.com

Oliver Thoma (*pro hac vice*)
West, Webb, Allbritton & Gentry, P.C.
1515 Emerald Plaza
College Station, Texas 77845
Ph: (979) 694-7000
Fax: (979) 694-8000
Email: oliver.thoma@westwebblaw.com

Attorneys for Defendant
Motiva Enterprises LLC

By: s/David Indiano
David Indiano
USDC-PR Bar No. 200601
Jeffrey M. Williams
USDC-PR Bar No. 202104
INDIANO & WILLIAMS, P.S.C.
207 del Parque Street; 3rd Floor
San Juan, P.R. 00912

Duke K. McCall, III (*pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave, NW
Washington D.C., 20004

Attorneys for Defendant
OCCIDENTAL PETROLEUM CORPORATION

By: s/Carlos A. Rodriguez Vidal
Carlos A. Rodriguez Vidal
USDC-PR Bar No. 201213
GOLDMAN ANTONETTI & CORDOVA, LLC
American International Plaza
250 Muñoz Rivera Avenue
San Juan, Puerto Rico 00918
Telephone: 787-759-4117
Facsimile: 787-767-9177
Email: crodriguez-vidal@gaclaw.com

Victor L. Hou (*pro hac vice*)

Boaz S. Morag (*pro hac vice*)
CLEARY GOTTLIEB STEEN & HAMILTON
LLP
One Liberty Plaza
New York, New York 10006
Telephone: 212-225-2000
Facsimile: 212-225-3999
Email: vhou@cgsh.com
Email: bmorag@cgsh.com

Attorneys for Defendant
BHP GROUP LIMITED

By: s/ Roberto A. Cámara-Fuertes
Roberto A. Cámara-Fuertes
USDC-PR Bar No. 219002
Jaime A. Torrens-Dávila
USDC-PR Bar No. 223810
Mónica Ramos Benítez
USDC-PR Bar No. 308405
FERRAIUOLI LLC
PO Box 195168
San Juan, Puerto Rico 00919
Telephone: (787) 766-7000
Facsimile: (787) 766-7001
E-mail: rcamara@ferraiuoli.com
E-mail: jtorrens@ferraiuoli.com
E-mail: mramos@ferraiuoli.com

Linda H. Martin (*pro hac vice*)
David Y. Livshiz (*pro hac vice*)
Noelle L. Williams (*pro hac vice*)
Jennifer E. King (*pro hac vice*)
FRESHFIELDS BRUCKHAUS DERINGER
US LLP
3 World Trade Center
175 Greenwich St.
New York, NY 10007
Telephone: (212) 277-4000
Facsimile: (212) 277-4001
E-mail: linda.martin@freshfields.com
E-mail: david.livshiz@freshfields.com
E-mail: noelle.williams@freshfields.com
E-mail: jennifer.king@freshfields.com

Jennifer Loeb (*pro hac vice*)
FRESHFIELDS BRUCKHAUS DERINGER
US LLP
700 13th Street, NW, 10th Floor
Washington, DC 20005
Telephone: (202) 777-4500
Facsimile: (202) 777-4555
E-mail: jennifer.loeb@freshfields.com

Attorneys for Defendant Rio Tinto PLC

By: s/ Eric Pérez-Ochoa
Eric Pérez-Ochoa
USDC-PR Bar No. 206314
Luis A. Oliver Fraticelli
USDC-PR Bar No. 209204
ADSUAR MUÑIZ GOYCO
SEDA & PÉREZ-OCHOA, P.S.C.
PO Box 70294
San Juan, Puerto Rico 00936-8294
Telephone: 787.756.9000
Facsimile: 787.756.9010
Email: epo@amgprlaw.com
Email: loliver@amgprlaw.com

Nancy Milburn (*pro hac vice*)
nancy.milburn@arnoldporter.com
Diana E. Reiter (*pro hac vice*)
diana.reiter@arnoldporter.com
ARNOLD & PORTER KAYE SCHOLER LLP
250 West 55th Street
New York, NY 10019-9710
Telephone: (212) 836-8000
Facsimile: (212) 836-8689

John D. Lombardo (*pro hac vice*)
john.lombardo@arnoldporter.com
Sean Morris (*pro hac vice*)
sean.morris@arnoldporter.com
ARNOLD & PORTER KAYE SCHOLER LLP
777 South Figueroa Street, 44th Floor
Los Angeles, CA 90017-5844
Telephone: (213) 243-4000
Facsimile: (213) 243-4199

Jonathan W. Hughes (*pro hac vice*)

jonathan.hughes@arnoldporter.com
ARNOLD & PORTER KAYE SCHOLER LLP
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111-4024
Telephone: (415) 471-3156
Facsimile: (415) 471-3400

Attorneys for Defendant BP p.l.c.

By: s/Carlos A. Valldejuly
Carlos A. Valldejuly-Sastre
USDC No. 209505
José J. Colón García
USDC No. 308010
O'NEILL & BORGES LLC
250 Muñoz Rivera Ave., Ste. 800
San Juan, Puerto Rico 00918-1813
Telephone: (787) 764-8181
Facsimile: (787) 753-8944
Email: carlos.valldejuly@oneillborges.com
Email: jose.colon@oneillborges.com

David C. Frederick (*pro hac vice*)
James M. Webster, III (*pro hac vice*)
Minsuk Han (*pro hac vice*)
Daniel S. Severson (*pro hac vice*)
Grace W. Knofczynski (*pro hac vice*)
KELLOGG, HANSEN, TODD, FIGEL
& FREDERICK, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
Telephone: (202) 326-7900
Facsimile: (202) 326-7999
E-mail: dfrederick@kellogghansen.com
E-mail: jwebster@kellogghansen.com
E-mail: mhan@kellogghansen.com
E-mail: dseverson@kellogghansen.com
E-mail: gknofczynski@kellogghansen.com

*Attorneys for Defendant SHELL PLC
(f/k/a ROYAL DUTCH SHELL PLC)*

By: s/Ricardo F. Casellas Sánchez
Ricardo F. Casellas Sánchez

USDC-PR No. 203114
Heriberto J. Burgos-Pérez
USDC-PR No. 204809
CASELLAS ALCOVER & BURGOS, P.S.C.
2 Tabonuco, Suite 400
San Patricio, PR 00968
Telephone: (787) 756-1400
Facsimile: (787) 756-1401
Email: hburgos@cabprlaw.com
Email: rcasellas@cabprlaw.com

Matthew T. Martens (*pro hac vice*)
Ericka Aiken (*pro hac vice*)
WILMER CUTLER PICKERING HALE
AND DORR LLP
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
Telephone: (202) 663-6000
Facsimile: (202) 663-6363
Email: matthew.martens@wilmerhale.com
E-mail: ericka.aiken@wilmerhale.com

Hallie B. Levin (*pro hac vice*)
WILMER CUTLER PICKERING HALE
AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
Telephone: (212) 230-8800
Facsimile: (212) 230-8888
E-mail: hallie.levin@wilmerhale.com

Robert Kingsley Smith (*pro hac vice*)
WILMER CUTLER PICKERING HALE
AND DORR LLP
60 State Street,
Boston, MA 02109
Telephone: 617-526-6000
Facsimile: 617-526-5000
E-mail: robert.smith@wilmerhale.com

Attorneys for Defendant ConocoPhillips

By: s/Ramon Dapena
Ramón Dapena
USDC-PR No. 125005

Iván Lladó
USDC-PR No. 302002
MORELL CARTAGENA & DAPENA
Ponce de León Ave. 273 Plaza 273, Suite 700
San Juan, PR 00908 Puerto Rico
Telephone: (787) 723-1233
Facsimile: (787) 723-8763
Email: ramon.dapena@mbcdlaw.com
Email: ivan.llado@mbcdlaw.com

Jeremiah J. Anderson (*pro hac vice*)
MCGUIREWOODS LLP
845 Texas Avenue, 24th Floor
Houston, TX 77002-2906
Telephone: (713) 571-9191
Email: jjanderson@mcguirewoods.com

Brian D. Schmalzbach (*pro hac vice*)
MCGUIREWOODS LLP
800 East Canal Street
Richmond, VA 23219-3619
Telephone: (804) 775-1000
E-mail: bschmalzbach@mcguirewoods.com

*Attorneys for Defendant American Petroleum
Institute*

CERTIFICATE OF SERVICE

I hereby certify that, on the above date, I filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel record who are CM/ECF system participants at their corresponding e-mail addresses.

By: Roberto C. Quiñones-Rivera
Roberto C. Quiñones-Rivera
USDC-PR Bar No. 211512